

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5 IN THE UNITED STATES DISTRICT COURT

6  
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8  
9 KAREN TAYLOR, individually and on  
10 behalf of all others similarly situated, and  
PAULISA FIELDS,

No. C 13-04916 WHA

11 Plaintiffs,

12 v.

13 WEST MARINE PRODUCTS INC.,

14 Defendant.

15 \_\_\_\_\_ /  
**ORDER DENYING  
MOTION TO DISMISS AND TO  
STRIKE CLASS ALLEGATIONS  
AS MOOT**

16 On November 21, defendant submitted a motion to dismiss plaintiffs' class action  
17 complaint and to strike class allegations, pursuant to Federal Rules of Civil Procedure 12(b)(6)  
18 and 12(f), and 23(d). Under Civil Local Rule 7-3, plaintiffs' opposition to that motion was due  
19 on December 5. To date, no such opposition has been filed.

20 Nonetheless, plaintiffs submitted an amended complaint yesterday, pursuant to Federal  
21 Rule of Civil Procedure 15(a)(1)(B). Because this amended complaint was filed within 21 days  
22 after service of defendant's motion, plaintiffs have complied with the requirements of Rule  
23 15(a)(1)(B). Accordingly, defendant's motion is **DENIED AS MOOT**, without prejudice to  
24 defendant bringing a fresh motion to dismiss the amended complaint and to strike class  
25 allegations. No further amendments may be made to the amended complaint without seeking in  
26 advance leave of the Court to do so.

27 **IT IS SO ORDERED.**

28 Dated: December 13, 2013.

*Wm. Alsup*  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE